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other area served by the Grantee) concerning licensing and regulatory requirements, complaint procedures, the options available to parents through certificates, and policies and practices relative to child care services within the State (or other area served by the Grantee), as required by § 98.33;

(h) In accordance with § 98.40, all providers of child care services for which assistance is provided under the Block Grant will comply with all licensing and regulatory requirements applicable under State or local law;

(i) Providers of child care services for which assistance is provided under the Block Grant that are not licensed or regulated for the purpose of providing child care under State or local law are required to be registered with the Grantee prior to payment being made and that such providers shall be permitted to register with the Grantee after selection by the parents of eligible children and before such payment is made, as required by § 98.45;

(j) There are in effect within the State (or other area served by the Grantee), under State or local law, requirements designed to protect the health and safety of children that are applicable to child care providers that provide services for which assistance is made available under the Block Grant, pursuant to § 98.41;

(k) In accordance with § 98.41, procedures are in effect to ensure that child care providers of services for which assistance is provided under the Block Grant comply with all applicable State or local health and safety requirements;

(l) If the State reduces the level of standards applicable to child care services provided in the State (or other area served by the Grantee) after November 5, 1990, the Grantee shall inform the Secretary of the rationale for such reduction in the annual report of the Grantee;

(m) The Grantee will, not later than 18 months after submission of the first Application, complete a full review of the law applicable to, and the licensing and regulatory requirements and policies of, each licensing agency that regulates child care services and programs in the State (or other area served by the Grantee) unless the Grantee has re-

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viewed such law, requirements, and policies in the three-year period ending on November 5, 1990;

(n) Pursuant to § 98.53, funds received through the Block Grant will be used only to supplement, not to supplant, the amount of Federal, State, and local funds otherwise expended for the support of child care services and related programs within the State (or other area served by the Grantee);

(o) Payment rates for the provision of child care services, in accordance with § 98.43, will be sufficient to ensure equal access for eligible children to comparable child care services in the State or substate area that are provided to children whose parents are not eligible to receive assistance under this program or under any other Federal or State child care assistance programs; and

(p) With respect to State and local regulatory requirements, health and safety requirements, payment rates, and registration requirements, State or local rules, procedures or other requirements promulgated for the purpose of the Block Grant will not significantly restrict parental choice from among categories of care or types of providers, pursuant to § 98.30(g).

§ 98.16 Plan provisions.

(a) A Block Grant Plan must contain the following:

(1) Specification of the lead agency whose duties and responsibilities are delineated in § 98.10;

(2) The assurances listed under § 98.15;

(3) A description of how the Block Grant program will be administered and implemented, if the lead agency does not directly administer and implement the program;

(4) A description of the coordination and consultation processes involved in the development of the Plan, pursuant to § 98.14 (a) and (b);

(5) A description of the public hearing process, pursuant to § 98.14(c);

(6) Definitions of the following terms for purposes of determining eligibility, pursuant to §§ 98.20(a) and 98.44:

(i) Special needs child;

(ii) Physical or mental incapacity (if applicable);

(iii) Attending (a job training or educational program);

(iv) Job training and educational program;

(v) Residing with;

(vi) Working;

(vii) Protective services (if applicable);

(viii) Very low income; and

(ix) *in loco parentis*.

(7) For child care services and activities to improve the availability and quality of child care, pursuant to § 98.50:

(i) A description of such services and activities;

(ii) Specification of the conditions under which availability of in-home care is limited (i.e., differences in payment rates);

(iii) A list of political subdivisions in which such services and activities are offered, if such services and activities are not available throughout the entire service area;

(iv) Provision for the reservation of 75 percent of overall Block Grant funds for such purposes, together with a plan for the allocation of, and prioritization of, such funds for such services and activities;

(v) Any additional eligibility criteria or priority rules (with appropriate definitions) established pursuant to § 98.20(b); and

(vi) Any eligibility criteria or priority rules for the receipt of grants and contracts;

(8) For activities to improve the quality of child care and to increase the availability of early childhood development and before- and after-school care services, pursuant to § 98.51:

(i) A description of such activities;

(ii) A list of political subdivisions in which such activities are offered, if such activities are not available throughout the entire service area;

(iii) Provision for the reservation of 25 percent of overall Block Grant funds for such purposes, together with a plan for allocation of, and prioritization of, such funds for such services and activities;

(iv) Any additional eligibility criteria or priority rules for children receiving such services established pursuant to § 98.21(b), with appropriate definitions; and

(v) A description of any eligibility criteria or priority rules for the receipt

of grants and contracts, in addition to those in § 98.51(c)(2);

(9) A description of the sliding fee scale(s) (including any factors other than income and family size used in establishing the fee scale(s)) that provide(s) for cost sharing by the families that receive child care services for which assistance is provided under the Block Grant for child care services under § 98.50 and § 98.51, pursuant to § 98.42, if applicable;

(10) A description of the minimum health and safety requirements, applicable to all providers of child care services for which assistance is provided under the Block Grant, in effect pursuant to § 98.41;

(11) A description of the child care certificate payment system(s), including the form or forms of the child care certificate, pursuant to § 98.30(c);

(12)(i) Payment rates and a description of the methodology used to establish such rates for reimbursement of child care services pursuant to § 98.43; and, if applicable,

(ii) Based on a methodologically sound system for determining market costs:

(A) Justification of the Grantee's decision not to provide for differences in payment based on the setting (categories of care), age of the child or additional costs of providing care for children with special needs; or

(B) Justification for setting differential rates(s) within particular categories of care, including a description of the single system for providing child care pursuant to § 98.43(e)(2);

(13) A description of the registration process, including the timeframes within which payment will be made, pursuant to § 98.45;

(14) If the Grantee does not permit the expenditure of State funds for child care services unless it is first verified that certain requirements are met (e.g., a certification process), a description of the applicable process and timeframes;

(15) A description of activities that are planned to encourage public-private partnerships which promote business involvement in meeting child care needs, pursuant to § 98.71(b)(4);

(16) A description of the methodology used to establish the level of effort, if

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the Grantee chooses to use other than a level of government basis, pursuant to § 98.53(b)(1);

(17) Such other information as specified by the Secretary; and

(b) For Indian Tribes:

(1) The Plan must include the basis for determining family eligibility pursuant to § 98.80(f).

(2) Tribal programs are not subject to paragraph (a)(6)(viii) and prioritization under paragraph (a)(8)(iii) of this section.

(3) Plans for those Tribes specified at § 98.83(f) (i.e., Tribes with small grants) are not subject to the requirements in paragraphs (a)(7)(iv), (a)(8)(iii), and (a)(11) of this section, unless the Tribe chooses to include such services, and, therefore, the associated requirements, in its program.

§ 98.17 Period covered by plan.

(a) For States and Territories, the initial Plan must cover a period of three years, and all subsequent Plans must cover a period of two years.

(b) For Indian Tribes, the initial Plan and any subsequent Plans must cover a period of two years.

(c) The lead agency must submit a new Plan prior to the expiration of the time period specified in paragraphs (a) and (b) of this section, at such time as required by the Secretary in written instructions.

§ 98.18 Approval and disapproval of plans and plan amendments.

(a) *Plan approval.* The Assistant Secretary will approve a Plan that satisfies the requirements of the Act and this part. Plans will be approved not later than the 90th day following the date on which the Plan submittal is received, unless a written agreement to extend that period has been secured.

(b) *Plan amendments.* Approved Plans must be amended whenever a substantial change in the program occurs. A Plan amendment must be submitted within 60 days of the effective date of the change. Plan amendments will be approved not later than the 90th day following the date on which the amendment is received, unless a written agreement to extend that period has been secured.

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(c) *Appeal of disapproval of a Plan or Plan amendment.* (1) An applicant or Grantee dissatisfied with a determination of the Assistant Secretary pursuant to paragraphs (a) or (b) of this section with respect to any Plan or amendment may, within 60 days after the date of receipt of notification of such determination, file a petition with the Assistant Secretary asking for reconsideration of the issue of whether such Plan or amendment conforms to the requirements for approval under the Act and pertinent Federal regulations.

(2) Within 30 days after receipt of such petition, the Assistant Secretary shall notify the applicant or Grantee of the time and place at which the hearing for the purpose of reconsidering such issue will be held.

(3) Such hearing shall be held not less than 30 days, nor more than 90 days, after the notification is furnished to the applicant or Grantee, unless the Assistant Secretary and the applicant or Grantee agree in writing on another time.

(4) Action pursuant to an initial determination by the Assistant Secretary described in paragraphs (a) and (b) of this section that a Plan or amendment is not approvable shall not be stayed pending the reconsideration, but in the event that the Assistant Secretary subsequently determines that the original decision was incorrect, the Assistant Secretary shall certify restitution forthwith in a lump sum of any funds incorrectly withheld or otherwise denied. The hearing procedures are described in part 99 of this chapter.

Subpart C—Eligibility for Services

§ 98.20 A child's eligibility for child care services.

(a) In order to be eligible for services under § 98.50, a child must:

(1)(i) Be under 13 years of age; or

(ii) At Grantee option, be under age 18 (or 19, if the State so provides in its definition of dependent child in its plan under title IV-A of the Social Security Act) and be physically or mentally incapable of caring for himself or herself, or under court supervision;

(2) Reside with a family whose income does not exceed 75 percent of the